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ORIGINAL

Supreme Court, U.S.
FILED
MAY 31 1984
ALEXANDER L. STEVAS
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

NO. 83-6339

KENNETH HANSON,

Appellant,

v.

STATE OF ILLINOIS,

Appellee.

APPELLANT'S BRIEF IN OPPOSITION TO APPELLEE'S DOCUMENT ENTITLED "BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI" ETC.

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Appellant, Pro Se

May 25, 1984

The state apparently treated appellant's jurisdictional statement as a petition for writ of certiorari. While this Court may decide that it does not have jurisdiction under Title 28 U.S.C. section 1257(2) and treat the appellant's papers as a petition for writ of certiorari pursuant to Title 28 U.S.C. section 2103, it would seem impossible to do so on the record now before the Court. Indeed, it appears that appellee has conceeded every element, including the presence of a substantial federal question, necessary to invoke this Court's appellate jurisdiction.

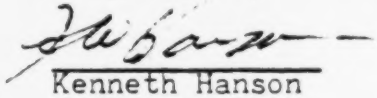
Appellee's argument appears to be that the state had no specific intent to violate appellant's rights and it should not be held responsible for the action, or inaction, of the court reporter. Illinois has a monopoly on court reporting in criminal cases (and civil cases in every county but Cook). They are regulated, including their state payment schedule, by Chapter 37 Illinois Revised Statutes section 651 et seq. They are paid by the state and do the state's business.

It is well settled that a specific intent to violate constitutional rights is not necessary element to state a cause of action for civil rights violations. Monroe v. Pate 365 U.S. 167, 186 (1961). The court reporter in the instant action is clearly a state agent and it is equally clear that this agents conduct has denied appellant his right to due process of law.

Illinois has demonstrated that it will invoke section 323(c) no matter how inadequate it may be. As long ago as 1958 a Seventh Circuit Judge termed the "bystanders report"procedure at issue here to be a.". . . dormant primitive procedural device." (U.S. ex rel. Westbrook v. Randolph 259 F. 2d 215, 228 (1958) (Fennegan J. dissenting). That statement is equally true today.

The judgment should be vacated and reversed or alternativly probable jurisdiction noted and further proceedings ordered.

Respectfully submitted,



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